Hornbuckle Road Maintenance – Past, Present, and Future

By Ken Hall

Landowners in the Hornbuckle/Cranberry Falls community have long recognized the need for cooperation in maintaining our roads. Earlier I published on our website an article tracing the history of the Hornbuckle region from the original land grants to the Plott family through the auction of this region by J. L. Todd in 1988. I briefly touched on the HPOA in that article.

In preparation for our upcoming meeting to discuss the future of our cooperative efforts to maintain ingress and egress in our Hornbuckle/Cranberry Falls community, it is worthwhile to examine the history of the HPOA in more depth. I have used this opportunity also to discuss my views regarding some of the lessons that can be learned from the experiences. The focus is on the more controversial subjects, the ones that are debated repeatedly, leading to turmoil, wasted effort, and friction among members. Information comes from summaries of annual meetings; board meetings; HPOA Articles of Incorporation; bylaws; and discussions with past board members, officers, and long-time residents.

Creation of the HPOA

The Hornbuckle Property Owners Association was created when Articles of Incorporation were filed with the North Carolina Secretary of State in 1988. Eight initial board members were named. The stated general purposes of the association are

1. Promote and preserve water facilities
2. To repair, improve and construct roads
3. To do everything to make the area a better place
4. To promote and construct recreational facilities desired by members
5. To own…and sell…pipelines and mains for the…sale of water; to buy and sell water rights…

The corporation was to have members and directors as provided in the bylaws. No part of the earnings of the corporation were to profit any officer, director, or member. Upon dissolution of the corporation, assets are to be "distributed to any association created for a similar purpose."

The primary focus of the association since its inception has been on item two, roads. It has also worked on several projects to make the area a better place to live,

including working with generous donors like the Suttons and many others to enhance the ability of the association to accomplish its objectives:

- Dumpster was installed and property deeded to Jackson County
- Mailboxes were installed and sold to members;
- Donated property was put to use housing association equipment;
- Entrance signs erected
- Road signs installed

It has been correctly observed that our community is composed of several plats named "Hornbuckle (Parkway Section, etc)" and also one named "Cranberry Falls". Membership voted in 2001 to change the name to HCPOA. Then in 2015 it was decided to keep HPOA as the name. The name of the corporation has never changed.

Bylaws through the years

The bylaws are written as though the Association were a Chapter 47 Homeowner's Association, even though it is not. The earliest set of bylaws we have is a fax copy of unrecorded, unsigned HPOA bylaws. The fax is dated October 22, 1992. Those bylaws defer on some topics to the "Declaration of Covenants, Conditions and Restrictions." The only CC&R's we have from that time period is also a fax copy dated 1992, and it is also unsigned. Both are available on hornbucklelandowner.org website.

The bylaws were amended from time to time during annual membership meetings, and members were asked to place updates with "their copy".

In 2008, a committee was formed to update the bylaws. It had been recognized that the Association needed bylaws that conformed with how the association actually operated, which was quite different from existing bylaws. A committee created a document that identified differences between the 1992 bylaws and how the association was functioning. Lettered notations were added to sections of the original bylaws, and an addendum with corresponding letter notations was added at the end. The addendum was titled "As We Operate". Based on this, updated bylaws were created. The updated bylaws were approved by the membership in 2009 at the annual meeting.

The association has often found getting volunteers to run for office a challenge. Running the association in strict accordance with the bylaws was never possible. Meetings were run as deemed appropriate and necessary at the time.

Codes, Covenants and Restrictions (CC&Rs)

As noted in the previous Bylaws section, the only CC&R's we have which claim to be incumbent on the Hornbuckle community is an unsigned fax copy dated 1992.

It has been suggested, and even attempted, to make relevant parts of the CC&Rs part of the bylaws and to eliminate any reference in the bylaws to CC&R's. This is sensible as long as any suggestion that the Association has a legal basis for imposing anything on landowners is eliminated. There are no CC&Rs uniformly applicable to land in Hornbuckle/Cranberry Falls. Even those added by Todd (No trailers or junkyards; Single Family residence only) do not appear on every deed, though exceptions are rare.

The CC&Rs faxed to Gant in 1992 are not on any deeds. Continued reference in the bylaws to these CC&Rs is misleading. The CC&Rs are written as though the Declarations is a legally binding document, though it is not. It includes statements that could only be correct if the document were signed by every landowner, such as

- *"Every owner of a lot or subdivided lot shall be a member of the Association"*
- *"Each owner of a lot is hereby deemed to covenant whether or not it shall be so expressed in his deed, to pay the Association annual assessments for capital improvements."*
- *"The right to dedicate or transfer all or any part of the roads to any municipality, public agency, authority, or utility, for the purpose and subject to such conditions as may be agreed upon by the members."*
- *"Article 5 – Use Restrictions"*

I've seen no evidence that *anyone* has signed this document or the bylaws, let alone every landowner. Nothing in the CC&Rs is binding on any landowner. Though none of these provisions are binding on anyone, from time to time a board of directors has been known to claim that they are.

Road Maintenance Fees

Over the last year, it has been proven beyond a reasonable doubt that road fees are voluntary. There is no deed-referenced Chapter 47 Homeowner's Association that landowners are obligated to pay. Nevertheless, the HPOA has been functioning

since 1988 as a voluntary association with operating procedures in loose conformance to the original unsigned "legacy" bylaws and CC&Rs. Statements are included in the bylaws that are not legally enforceable, and as stated previously the CC&Rs are not in our deeds.

The "legacy" CC&Rs state:

(a) Until December 31, 1989, the maximum annual assessment shall be $100.00 per year.

(b) From and after January 1, 1990, the maximum annual assessment may be increased by a maximum of ten percent (10%) by the vote or written assent of fifty-one percent (51%) of the members.

(c) The Board of Directors of the Association may fix the annual assessment at an amount not in excess of the maximum.

Members have repeatedly expressed a view that it is unfair that some landowners do not pay. Through the years, the possibility of forcing landowners to pay road fees has been raised repeatedly.

- In 2004, a question was asked regarding if membership fees are to be collected at closing on properties. "Some of the old deeds did not require joining membership but new deeds do." (Author's note: some deeds do in fact now require joining. This requirement was included as a restriction when the owner sold the property. But most deeds do not include this requirement)
- In 2007, George Decker made a motion to investigate the possibility of garnishing property of property owners who do not pay road dues – he did not think that some people should be allowed not to pay dues while others had to. Three people offered to pay $100 each toward attorney's fees to investigate garnishing property of property owners who do not pay road dues. In 2010, the answer to the questions "about garnishing wages, putting liens on property – could we as a POA do this? The answer is NO. We have no legal authority to do so."
- In 2010, Carey Hodges said he "felt it to be unfair to always have the same people paying and now an increase to the same people was not the way to getting more money. He then suggested that "we might place impact fees on persons who were renting out their homes."
- In 2014, Tracey Madgeburg suggested "we contact an attorney to see if we can initiate a process whereby all new property owners have it in their

> paperwork to be members of the association and pay their dues or else have a lien put on their property."

In 2020, President Jack Bazner "asked if we could put a lien on the property of those folks who don't pay dues. It would add another step they would have to go through when they sell. They would pay the 200 dollars to clear the lien because to fight it would cost them more." This was done in 2021 by Angel Buroughs, and money was collected. This practice has been described by Waynesville attorney Bill Cannon as "fraudulent misrepresentation and deceptive trade practice." The association has no legal right to make "assessments" (meaning mandatory payments) or to claim money is owed. This illicit activity was the primary reason I withdrew my membership in the association last summer.

Initially, road fees were $100. In 2003, they were raised to $150. That year, a load of gravel cost $240. In 2010, members voted to raise the fee to $200 per lot. Today, a load of gravel costs about $600.

Collection methods and timing have changed. In 1989, membership voted to "have road fund money collected by March 1, 1990, and each year thereafter." In 1990, it was voted to be paid by January 15 each year, and road fees were sent to the road chairman. In 1993, the Board of Directors voted "to allow POA members having road work done at their own expense to receive credit on their road fund dues…"

In 2015, the Board of Directors filed with the Jackson County Register of Deeds a "Resolution…Regarding the Maintenance of Roads." It states "The Board of Directors does hereby adopt this Resolution which shall be recorded in the Public Records of Jackson County, and shall serve as the instrument to be provided as information to all future property buyers by the Seller and shall serve for all mortgagees as the HPOA Road Maintenance Agreement…when requested by a lending institution." This document has been used to show lenders how the roads are maintained. It states that "All property owners shall continue to be billed an assessment, which is currently $200.00 per year…Property owners are assessed annual Road Dues per lot owned."

The Board did not, through this document, set the dues at $200. That was done by a vote of members in 2010. It has since been made clear by attorney Bill Cannon that, because it lacks legal authority, the Association cannot "assess" (which legally means mandatory). Regardless, the document has served its purpose.

Ray Schalk, past president, explained his view of the purpose of the association in the 2017 annual meeting. Drawing from the minutes of that meeting, "He stressed that the association is about egress and ingress for the property owners in the neighborhood. With good roads, property values and property sales should grow. This association was established in 1989 after some lots were already sold. He stated there is no way to make property owners accountable for their maintenance/membership dues." "HPOA was established 10/6/1988 for the purpose of supporting the roadways and infrastructure necessary to the ingress and egress of property owners, thereby enhancing property values. HPOA was formed independent of deeding and not all property owners are members. Membership is volunteer."

As stated, membership in the association is voluntary, as are contributions towards road maintenance and membership dues. The association has no legal authority to make assessments (meaning mandatory) or enforce payment of dues or road fees. The HPOA filed an agreement with the Jackson County Register of Deeds on February 2020 (Book 2261 Page 644-650) in which it is stated "…participation in the Property Owners Association is voluntary, based on the preference of each home and/or lot owner within said subdivision and is not an **appurtenance** (author's note: appurtenance is a legal term that means right or restriction that runs with the land) to each lot within said subdivision." It also states that the Hornbuckle Property Owners Association is a non-profit formed "…for the sole purposes of maintaining, repairing and/or upkeeping the roads and rights of way…". As stated in the Articles of Incorporation, however, road maintenance was not the only purpose of the HPOA.

According to the opinion of Kimberly Carpenter, an attorney in the Sylva law firm that created the agreement, now that this has been executed by the corporation there is "no way to back out of that position". Contrary to claims last year by acting HPOA treasurer Angel Buroughs, landowners are not required to be members.

The HPOA Interim Board of Directors (I.B.O.D.) attempted to create a legal basis for enforcement of assessments through a new "Road Maintenance Agreement" (RMA) that was dated November 2021 and sent to landowners in early 2022. In a letter accompanying the RMA, the Directors instructed landowners to "Please return the signed and notarized (signature page only) in the enclosed envelope by March 31st to join the Association." The due date was later extended to April 30th. To date, no signed agreements have been recorded with the Jackson County Register of Deeds.

Though the HPOA has no legal standing to enforce contributions towards road maintenance, as Waynesville attorney Bill Cannon stated in his letter, “North Carolina law provides that all persons who have and *use* (emphasis mine) a roadway easement are required to contribute to the maintenance of the easement. However, although this obligation can be enforced in court by owners who seek contribution for maintenance expenses, the Association may not have standing to file suit on behalf of those owners.”

A landowner could go to court to enforce contributions, but in our community that would be impractical. I’ll explain my reasoning.

First, let’s look at a simple scenario. Neighboring landowners Larry and Moe share an easement over Curly’s land to get to their homes. Larry has paid $1000 for grading and gravel. Moe refuses to contribute, though he uses the road as much as Larry. Larry sues Moe in Jackson County Superior Court for $500. He shows the judge that what he has done is necessary and reasonable, and that Moe uses the easement but refuses to contribute to its maintenance. The judge may rightly pass judgement in favor of Larry. Larry bears the cost of filing the small claims lawsuit, but that is minimal, as he didn’t hire a lawyer.

The example case of Larry and Moe is simple. Our circumstances are not. We are a community of several hundred landowners and we all use the same easements that cross through the private property of many owners. More than half the acreage is undeveloped. Landowners that do not *use* easements might successfully argue in court that they are not liable for road maintenance costs. Presently, only about thirty percent of the lots in Hornbuckle are developed. Seventy percent are undeveloped.

Let’s look at another example. This example is more representative of our circumstances. Cabin owner Abott has been contributing to the HPOA $200 each year for the five years he has owned his cabin, for a total of $1000. Costello, who owns the cabin next door, has not paid a dime. Abott decides to sue. He has to hire a lawyer, though, because of the complexities involved. His attorney fees may not be recoverable, even if he wins in court.

How much were his own personal damages? Certainly not $1000, or even half of the $1000. It might be argued that all the paying members should get a fair share of the $1000 he claims that Costello owes. Each paying member would have to file their own suit. A plaintiff, if he were to win, might get ten bucks. That is a poor gamble.

What would a fair share of costs be, anyway? Is it fair for someone who drives one mile on Plott Balsam to be charged the same as someone who drives three miles? Is it fair for someone who visits their cabin twice a year to pay the same as a rental property owner who has renters coming in and out every day? How about full-time versus part time residents? What if Costello has not paid the Association any money, but has single-handedly paid $3000 to maintain the last mile that the Association did not have funds to handle? Should the owner of a fifty-acre lot be billed the same as the owner of a half-acre lot? What level of maintenance is necessary and reasonable? Some may like the roads rough, to keep speeds down and minimize traffic volume. Some may want the roads graded every week, so their trek in and out does not jar their hurt back. One or two may even think paved roads are necessary. A judgement about what is fair will depend on who is judging.

Abott might win a judgement, or he might not. He will certainly have invested considerably for the attempt. So far, there have been no Abotts in our community. I don't expect there ever will be.

Since we are definitely not a Chapter 47F Planned Community, we are left to figure out a way to do what needs to be done for our roads as friends and neighbors on a voluntary basis, allowing that everyone has their own idea of what is fair. Many will contribute in ways they are able. Some will contribute more than others. Some will not contribute anything. Thus it will always be.

The best way to maximize contributions and volunteer efforts is to maximize membership and energize the community. Actions the HPOA has taken attempting to force payment of road fees has caused a decline in membership and participation. We need to reverse the trend. Due to the high cost of gravel, the recommended fee needs to be increased, but it also needs to be restructured so the recommended fee reflects usage. Owners will pay only what they feel is fair, anyway. A fee structure that reflects usage will give those owners a better sense of what is fair, and it will better conform to NC laws.

Road Maintenance Priorities and Objectives

The 1992 bylaws state that besides maintaining the roads, it was the goal to bring them up to Jackson County standards so that ownership could be transferred to the county. This goal is not realistic, since the rights of way are private property, not owned by the association. Each owner would have to agree to transfer ownership to the county, and the county would have to accept ownership and responsibility for the roads.

In 1994, it was stated that “in the future, road expenditures will be determined by revenues received from property owners on that road.” At that time, the association maintained “17 roads: Spruce Flats, Upper Thunderstruck, Skyway Drive, Tarpley Trail, Lower Thunderstruck, Cherokee Trail, Cranberry Creek Road, Plott Balsam (Section 1), Plott Balsam (Section 2), Fox Den Circle, Azalea Trail, Lower Hornbuckle, Parkway Drive, Grouse Hollow, Upper Hornbuckle, Green Mountain Road, Plott Balsam Road (Section 3 to Green Mountain). Road names were changed when the 911 system was implemented, as noted in the article “A Little History of Hornbuckle” available on hornbucklelandowners.org.

In 2006, the minutes of meeting state “Privately owned roads are not in the Property Owners Association and are not maintained by the association. New roads being cut in are not maintained by the association, but you need to pay your road dues because roads that are maintained by the association is what you use to get in and out from Highway 19. “Privately owned roads” must refer to roads that are not on easements, since all roads in Hornbuckle are across privately owned property.

Plowing of snow is now possible with the Association-owned plow, provided there is a volunteer willing and able to operate it. This was not always so. In 2004, it was noted “The association does not have equipment to move snow, and everyone is on their on to move snow.” Snow accumulation is less now, but it was noted that in the winter of 2002/2003 we had 81 inches of snow.

It has been a common practice of the road chairman to spend association money on roads other that Plott Balsam only in relation to the contributions from owners on those roads. It has been proposed going forward that this practice continue. A portion of contributions from owners on what is called secondary roads (roads connected to Plott Balsam) would be spent on those secondary roads, and the remaining portion be spent on Plott Balsam. Volunteer “Road Captains” take responsibility for their own secondary roads and decide how to spend the funds available for those roads. Other neighbors on the road can bring concerns and recommendations to the Road Captain. The Association can help the Road Captain with coordination of volunteer work crews from throughout the community. If a particular secondary road has no one willing to volunteer as road chairman, the road will not get much attention.

HPOA Activities not directly road-maintenance related

Over the years, the association has engaged in a number of projects not directly related to road maintenance. The Articles of Incorporation go beyond just road

maintenance, as noted earlier, so this is not in conflict with the original purpose of the HPOA. However, some of the activities exceed the authority of the HPOA.

In the January 2020 agreement filed with the Jackson County Register of Deeds, the association stated that it had the "authority to grant easements over and across subdivision roads…". This is untrue. The association does not own the easements. Landowners own the easements. The association has no authority to grant an easement on land it does not own. This was recognized by Jim Kerner, who signed the first of three such agreements. According to Jim, the agreements were requested and paid for by the respective landowners. The Jackson County Health Department had flagged future water well locations for those owners within the road easement. The Health Department required the owners to get "permission" to use the easement from the HPOA, even though the HPOA has no authority regarding easements except those easements on property owned by the Association.

Minutes from the Board of Directors Meeting on April 14, 2007 state that "A discussion was held regarding the number of campers that are now in the area and no building sites or permits noted. Jerry Frazier, president, will …set regulations for the time a camper can be on the property if home is not being built." This is another example of the association attempting to exert authority it does not have.

In 1999 the minutes state "Due to break-ins, Reservation Drive will be closed as agreed on by the road committee. Three new property owners on Reservation wanted a gate, but later agreed to join the decision to find someone to dig a hole to stop traffic from the Reservation." In this case, it appears that though association did not own or have a legal right to block the road, it acted on behalf of owners, who did. Since our deeds only grant rights of ingress and egress to Route 19, blocking Reservation Road where it connected to BIA 455 would not interfere with any deeded rights.

In 1992, a gate was installed at Picnic Gap and other locations. This resulted in quite a dustup within the community. In a letter from Glover T. and Eloise B. Wood to Charles Gantt, October 6, 1992, according to meeting minutes: "I understand that you are chairman of the Gate Committee at the Soco Gap, Cranberry Falls development. A Gate has been put in with plans to lock the Gate. We are not members of the Cranberry Falls Association and do not want a locked gate at the entrance of the Soco Gap Development." As late as 1995, "Whether or not to lock the gates continues to be controversial."

Each landowner in Hornbuckle has deeded rights of ingress and egress. An owner of a property may install a gate on a wholly owned easement, but may not prevent the passage of anyone with a deeded right of ingress and egress using that easement. There are considerations that might make locking a gate impractical, such as access of emergency vehicles, utilities, guests, etc. When only a few owners are beyond a gate and all of them want it, it can work. But it could never work if the whole community passes through, as was learned at Picnic Gap.

Eligibility for Membership

The Interim Board of Directors (I.B.O.D.), in a letter dated November 2021 stated that landowners were to "…return the signed and notarized (signature page only) in the enclosed envelope by March 31st to join the Association." If one were to believe the I.B.O.D.is legitimately acting within their authority, then it follows that only those who sign will be members. This is contrary to precedent and contrary to the bylaws.

The articles of incorporation state that "the corporation shall have members in accordance with the bylaws." The 1992 bylaws state that ""member" shall mean…any person entitled to membership…as provided in the Declaration." As noted earlier, none of our deeds include this Declaration of CC&Rs, so they have no legal significance. Nonetheless, that commonly accepted Declaration states in Article II, section 1, "Every owner of a lot…shall be a member of the association…" Of course, since the association is voluntary, membership cannot be mandatory despite the bylaws' use of the word "shall". This passage should be interpreted to mean "every owner of a lot *is eligible* to be a member"

The 2009 bylaws state that "The Board of Directors shall have the power to…establish, levy and collect Association membership annual dues from members of the association."

Membership dues are separate from the road fees and are for a different purpose. Membership dues are for "... administrative expenses such as postage, envelopes, etc." (minutes, 1992) Membership dues have been $20 since the beginning.

Not every member gets to vote, since only one vote per lot is allowed. But multiple owners of a single lot can each be members. The 1992 Declarations state "When more than one person holds an interest in a lot all such persons shall be members and the vote for such lot shall be exercised as they may determine among themselves."

To encourage broad participation from the community, in the future, “interest in a lot” should not be interpreted to exclude those whose names do not appear on a deed. There is no down-side to more members.

Meetings of Members

Originally, the annual meeting was held on the first Saturday in October. In 1997, members voted to change the date of the annual meeting to the first Saturday in August.

Special meetings of members may be called at any time by the President or by the Board of Directors, or on written request of members who are entitled to vote. “Written notice of each meeting of members shall be given by, or at the direction of, the Secretary or other person authorized to call the meeting, by mailing or emailing a copy of such notice, postage prepaid, at least thirty (30) but not more than sixty (60) days before such meeting to each member entitled to vote thereat, addressed to the member’s address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of receiving notice. Such notice shall specify the day, hour, and place of the meeting, and in the case of a special meeting, the purpose of the meeting.

Lacking a duly elected secretary, or any other officer or board member, it was not possible to follow the bylaws regarding who was to give notice of our June 4 meeting. Valerie Evans, as a member of the association volunteering to fulfill the role of secretary, followed the prescription for the meeting notice.

Eligibility to Vote

The 1992 bylaws referenced above state, in Article II, Section 2: “The Association shall consist of voting members who shall be owners and shall be entitled to one vote for each lot owned; When more than one person holds an interest in a lot, all such persons shall be members and the vote for such lot shall be exercised as they may determine among themselves.”

According to the 2009 amendment to the bylaws, each paid lot was to have one vote.

Quorum

North Carolina Code – General Statutes 255A-7-22 state “*Unless this Chapter, the articles of incorporation, or bylaws provide for a higher or lower quorum, ten percent (10%) of the votes entitled to be cast on a matter shall be represented at a meeting of members to constitute a quorum on that matter.”*

The 1992 By-Laws define a quorum: “The presence at the meeting, in person or proxy, of members entitled to cast a majority of the votes shall constitute a quorum.” The HPOA 2009 bylaws state that for a meeting of members a quorum is 20% of the total votes. Our best attempt at counting shows 382 lots and 257 owners. One vote per lot would mean 382 votes, and twenty percent is 76 votes. This is more than typically shows up at annual meetings, by my estimation based on the meetings I have attended. Forty-seven registered at the 2009 annual meeting when the bylaws were amended. The AWO states that “Proxies have never been utilized”, so it must be concluded that a real quorum according to the 1992 or 2009 bylaws has rarely, if ever, been met. I must estimate annual meeting attendance because the minutes of meetings often do not address the number of votes either in presence or by proxy. In fact, the “As We Operate” addendum to the bylaws that was created in 2008 or 2009 states “Meetings held with no consideration to a quorum”.

For our meeting on June 4, 2022 at the Maggie Valley Pavilion, we are in an unusual situation. The HPOA has no elected directors. Number of paid members is unknown by the organizers. The organizers choose to observe the North Carolina Statute regarding what constitutes a quorum (10%) and establish the total number of votes entitled to be cast to be 382, the total number of lots. Owners of each of the 382 lots will be eligible to cast one vote for each lot, regardless of “paid” status. If by presence or proxy 38 votes are represented, we will have a quorum.

Board of Directors and Officers

The Articles of Incorporation included eight board members. Seven directors were required by the 1992 bylaws, and this has been the standard.

The 1992 bylaws state that the term of office is one year, except that in the first year four are elected for a two year term. In 2009, the bylaws were amended to extend the term of all board members to two years, seemingly with the intent of having staggered terms.

Election was to be by secret ballot. The board was authorized to exercise all granted powers except those reserved to the members by the Articles, bylaws, or Declaration. Officers have not generally been board members, except for President and Road Chairman. This has changed from time to time, though. President and VP are members of the board (two of the seven). Other officers (e.g. secretary, treasurer) were generally not board members.

Each officer (President, VP, Secretary, Treasurer, Road Chairman) and board of director positions were included on the ballot in 2009. In 2015, the members approved a motion to allow the secretary and treasurer to vote at board meetings.

Officers and boards were duly elected from inception of the association through 2019. The last annual meeting and election of officers and board members was August 2019. Shortly thereafter began successive resignations and appointments to fill vacancies until the end of remaining terms. Since the term of office is two years, the last elected term of office expired at what would have been the August 2021 annual membership meeting. Since August 2021, volunteers have stepped up to provide continuity. Unfortunately, none of these volunteers scheduled a meeting to hold elections. During this period after the expiration of the elected terms, some of the volunteers decided it was necessary for the HPOA to become a legal association with some Chapter 47 powers of enforcement. They hired an attorney with HPOA money, and sent a newly written "Road Maintenance Agreement" to all landowners with instructions to "Return the signed and notarized (signature page only)…by March 31, 2022 to join the Association". The Agreement states "Any owner who uses the Roadways for ingress and egress to access their property may ratify and join in this agreement with all the rights and privileges of the Owners herein by executing and filing a document which subjects their property to this Agreement; recording such documentation with the Register of Deeds of Jackson County". "Collection of the assessments shall be conducted in accordance with Chapter 47F of the North Carolina General Statutes."

A spot check with the Register of Deeds revealed no signed agreements. Perhaps some landowners signed, though doing so has proven very unpopular.

Emergency Services

It was reported in the 2003 annual meeting that currently Cherokee is our first responder although Maggie Valley will respond if they do not have an emergency. For now we have to continue calling Jackson County for an emergency and they in turn will call Maggie Valley.

Prior to the 2009 annual meeting, the County Affairs committee (headed by William Smith) met with Commissioner Shelton and County Manager Ken Westmorlin for the purpose of expressing concerns as to what the residents in this community are getting for their tax dollars. William said they expressed their concern for the issues discussed and as a result the primary need of emergency services was brought up in several commission meetings. Mr. Westmorlin contacted the Chief of the Cherokee Tribe. It was agreed that if Jackson County

would build a fire station near our area, the Tribe would man it. However, they won't be able to do anything for us until funds have become available to the county.

Nothing further about emergency services is revealed in the documentation I've reviewed, but I've been assured by long-term residents with experience that a call to 911 brings a good response.

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